

W. J. LANGLEY

IBLA 77-220

Decided March 27, 1978

Appeal of the procedure announced by the New Mexico State Office, Bureau of Land Management, for determination of priority of simultaneously filed noncompetitive oil and gas lease offers. NM 29755.

Case remanded.

1. Oil and Gas Leases: Applications: Drawings—Oil and Gas Leases: Noncompetitive Leases

Where it is first alleged on appeal that a first drawn simultaneous oil and gas entry card has been rejected in order for the lease to be awarded to the offeree first drawn in a prior drawing, which prior drawing was void because of an omitted entry card, but the record as to the second drawing is incomplete and an affected party has not been given opportunity to participate, the case may be remanded for augmentation of the record and initial consideration by Bureau of Land Management.

APPEARANCES: W. J. Langley, pro se; George H. Hunker, Jr., Esq., of Hunker-Fedric, P.A., Roswell, New Mexico, for James Q. Marshall.

OPINION BY ADMINISTRATIVE JUDGE GOSS

This appeal is brought by W. J. Langley from the procedure utilized by the New Mexico State Office, Bureau of Land Management (BLM), for conducting a drawing to determine priority of simultaneously filed noncompetitive oil and gas lease offers. A drawing for parcel NM-325 was first held on February 8, 1977, at which time James Q. Marshall's entry card was first drawn. Appellant's offer did not receive priority in this drawing. Subsequently, by notice dated February 10, 1977, BLM indicated that a redrawing would be held because an entry card had been omitted from participation in the first drawing.

Appellant is here challenging the manner in which the BLM is using the two drawings to determine priority. The notice of February 10 stated that in the redrawing the omitted entry card would be added to the cards which participated in the prior drawing. The notice further stated that if a previously omitted entry card received first, second, or third priority at the redrawing, then that card would replace the card originally drawn with that priority in the prior drawing. Otherwise, the priorities established in the prior drawing would remain unchanged by the redrawing.

The record before the Board is not complete, but appellant alleges that his entry card was drawn first at the redrawing and that he is entitled to receive any lease which may issue for the parcel. Appellant contends that the only legal drawing to determine priority was the redrawing in which all of the simultaneous oil and gas lease offer entry cards were included. The only indication in the file of the results of the redrawing is a photocopy of a notation that the "original drawing remains unchanged" bearing a date of March 15, 1977, a month after the date of the redrawing.

[1] The Board held in Herman A. Keller, 14 IBLA 188, 190, 81 I.D. 26, 27 (1974): "R. E. Puckett, [A-30419 (October 29, 1965)] is merely one of many cases which stand for the proposition that if an entry card is excluded from a simultaneous drawing that drawing is void and a new drawing, with all of the cards included, must be held. See e.g., Craig Martin, 6 IBLA 37 (1972); R. Donald Jones, A-29631 (November 4, 1963); Max H. Christensen, A-29703 (September 17, 1963); John H. Anderson, 67 I.D. 209 (1960)." However, in view of the inability of BLM to initially consider and respond to appellant's allegations, and the lack of opportunity for Marshall to participate, the case should be remanded to the BLM for augmentation of the record and initial adjudication.

James Q. Marshall is accorded 20 days from receipt of this decision in which to file with the State Office a response to the argument made by appellant.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the case is remanded for further action of the BLM.

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Joseph W. Goss  
Administrative Judge

We concur.

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Martin Ritvo  
Administrative Judge

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Joan B. Thompson  
Administrative Judge

